

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)
Department of Housing and Urban)
Development, on behalf of)
[REDACTED])
Charging Party,)
v.)
John J. and Nancy A. Meany,)
Respondents.)

FHEO No.: 07-10-0931-8

CHARGE OF DISCRIMINATION

I. JURISDICTION

Complainant [REDACTED] an aggrieved person, timely filed a verified complaint with the U.S. Department of Housing and Urban Development (HUD) on or about September 29, 2010¹, as amended on or about June 15, 2011, on behalf of herself and her minor daughter, [REDACTED] an aggrieved person, alleging Respondents John and Nancy Meany committed discriminatory housing practices on the basis of Complainant's daughter's disability² in violation of Section 804(f) of the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3601 *et seq.* (2011) (hereafter, the "Act").

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination (Charge) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel, who has redelegated to the Regional Counsel, the authority to issue such a Charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) or his designee. 24 C.F.R. §§ 103.400(a)(2)(i) and 103.405 (2011); 76 Fed. Reg. 42463, 42465 (July 18, 2011).

¹ HUD referred the complaint to the Iowa Civil Rights Commission (ICRC) for investigation on September 29, 2010. ICRC voluntarily waived the complaint back to HUD for investigation on September 30, 2010.

² This Charge will use "disability" in place of "handicap," the term which appears in the Fair Housing Act. The terms have the same legal meaning.

By Determination of Reasonable Cause of August 18, 2011, the FHEO Region VII Director, on behalf of the Assistant Secretary for FHEO, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred based on disability and has authorized and directed the issuance of this Charge.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in the aforementioned Determination of Reasonable Cause, Respondents John and Nancy Meany are charged with discriminating against the Complainant and her minor daughter based on disability in violation of 42 U.S.C. § 3604(f) as follows:

A. Applicable Federal Law

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available. 42 U.S.C. § 3604(f)(2)(B); 24 C.F.R. § 100.202(b)(2).
2. It is unlawful to refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling unit. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204.
3. Pursuant to the Act, an "aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice. 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

B. Background

4. The subject property is a two-story building with four separate apartment rental units located at [REDACTED] Iowa, 50675.
5. Complainant [REDACTED] non-disabled divorced mother, resided with [REDACTED], her disabled daughter, in [REDACTED] at the subject property, from on or about November 1, 2009 until December 31, 2010. Complainant's apartment is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).
6. [REDACTED] is a 7-year-old who was diagnosed with cerebral palsy at 2 years of age. She is in a wheelchair and is not able to walk, roll over or sit up by herself. [REDACTED] requires care 24 hours a day, 7 day a week, and is totally dependent on others for her daily needs. [REDACTED] has a disability as defined by 42 U.S.C § 3602(h).

7. Respondents John J. Meany ("Joe")³ and Nancy A. Meany, a married couple, are the joint owners of the subject property. Both Respondents have active real estate broker licenses and appraiser licenses in the state of Iowa.
8. Respondents manage the subject property and do not have any full-time employees. Respondents do not reside at the subject property. The subject property is not exempt under the Act.
9. Respondents have a written "No Pet Policy" at the subject property. Respondents' Monthly Rental Agreement states: "No pets shall be brought on the premises. . . ."
10. Respondents do not have a reasonable accommodation policy at the subject property.
11. On or about October 28, 2009, the Complainant applied to rent a unit at the subject property from Respondents. On the Respondents' Residential Rental Application, the Complainant noted there would be two occupants in the unit, one adult and one child.
12. At the time of application, Complainant inquired with Respondent Nancy Meany whether she could have a cat in her unit for her daughter [REDACTED]
13. Respondent Nancy Meany told the Complainant she could not have a cat and that no pets are allowed at the subject property. Complainant did not pursue the request at that time.
14. Complainant signed a Monthly Rental Agreement with a monthly rent of \$400 with Respondents on October 28, 2009.
15. On or about November 1, 2009, Complainant and [REDACTED] moved into the subject property. Respondents acknowledge that they were aware that [REDACTED] was disabled prior to her moving to the subject property.
16. [REDACTED] disability causes her stress, anxiety and chronic pain. [REDACTED] stress is increased because of her limited communication and movement capabilities. She also has very little motor control which is distressing and causes anxiety.
17. On or about August/September 2010, [REDACTED] began to experience an increased amount of anxiety associated with her disability. She began having emotional problems, sleep disruptions and increased nightmares on a regular basis.
18. In the past, Complainant had noticed improvement in [REDACTED] disability related symptoms of muscle and limb tightness, stress and anxiety in the presence of animals. Prior to moving to the subject property, Complainant and her daughter, had lived with animals, including at times a dog and a cat.

³ Respondent's legal name listed on county and state records is John Joseph or John J. Meany. However, Respondent is known as Joe Meany and used the name Joe on documents related to the rental of the subject property and in his interactions with Complainant.

19. Complainant discovered that spending time with [REDACTED] Complainant's 10-year-old, 45-pound black Labrador Retriever, provided comfort to [REDACTED] and alleviated some of the stress and anxiety [REDACTED] was experiencing as a result of her disability.⁴
20. On or about September 4, 2010, the Complainant spoke with Respondent John Meany and asked if she could obtain a therapy or companion animal for her daughter. Complainant informed Respondent John Meany that [REDACTED] would benefit from a companion animal and that it would assist [REDACTED] in dealing with her nightmares, social issues, and overall mental issues related to her disability.
21. Respondent John Meany informed the Complainant that she would have to discuss the request with Respondent Nancy Meany and he would have Respondent Nancy Meany call Complainant back. Complainant did not hear back from the Respondents.
22. On or about September 10, 2010, the Complainant called Respondents to follow-up on her reasonable accommodation request. During the telephone call with Respondent John Meany, Complainant requested to have their dog, [REDACTED] live with them to assist [REDACTED] and explained that [REDACTED] had responded well to spending time with the dog recently.
23. Respondent John Meany informed Complainant that Respondent Nancy Meany was not home, but would return Complainant's telephone call. Respondent John Meany reminded the Complainant at the time she signed her lease she understood that the Respondents did not allow animals at the subject property.
24. Respondent John Meany also informed Complainant that if she wanted to get a pet she would have to move from the subject property. Complainant informed Respondent that she had called several landlords in the area and had been unable to find any other place to rent. Complainant did not hear back from the Respondents.
25. In a written letter dated September 22, 2010, and addressed to Respondent Nancy Meany, Complainant requested a modification to Respondents' "No Pet Policy." The letter stated: "I am writing this letter to ask permission for a modification in the 'No Pet Policy' for our home [REDACTED]. This modification is being asked due to my daughter [REDACTED] disability and to permit her to further enjoy her home with a Service Animal." The letter also referenced that supporting documentation from both [REDACTED] doctor (pediatrician) and therapist was included.
26. The first supporting letter dated September 3, 2010, from [REDACTED] pediatrician, [REDACTED] stated: "Due to mental illness, [REDACTED] has certain limitations regarding coping with stress/anxiety. In order to help alleviate these difficulties, and to enhance her ability to live independently and to fully use and enjoy the dwelling unit you own and/or administer, I am prescribing an emotional support animal that will assist [REDACTED] in coping with her disability."

⁴ Complainant's dog, [REDACTED] had been intermittently living with Complainant's ex-husband and friends since approximately 2007.

27. The second supporting letter dated September 10, 2010, from [REDACTED] therapist, [REDACTED] stated: "[d]ue to her disability, [REDACTED] has mental health issues regarding coping with stress and anxiety. In order to help her to manage these problems, and to assist her ability to fully use and enjoy the dwelling you own and/or administer, as well as the likelihood that she ultimately lives independently, I am prescribing an emotional support animal to assist [REDACTED] in coping."
28. Respondents sent Complainant a letter dated September 24, 2010, denying Complainant's reasonable accommodation request for a service animal. Respondents' denial letter stated: "We are not intending to modify the "no pet policy" on our property at [REDACTED] Traer, Iowa." Respondents' denial letter also informed the Complainant that "if you feel you cannot wait, and decide to bring a pet in for [REDACTED] health we are asking that you deposit an additional \$200 deposit prior to the pet moving in. We also ask that your rent be increased to \$425 per month beginning the month that the pet moves in."
29. After providing the Complainant with the denial letter, Respondents did not have further communication with Complainant regarding her request for a reasonable accommodation for [REDACTED]
30. Due to Respondents' denial of Complainant's reasonable accommodation request, Complainant searched for a new home for herself and her daughter where [REDACTED] would be permitted to reside with them.
31. After finding a new rental property, Complainant provided a written Notice of Termination of Rental Agreement dated November 22, 2010, to Respondents. In the Notice, Complainant stated her reason for vacating was Respondents' refusal to modify the "No Pet Policy" for her daughter to have a companion animal per doctor's orders.
32. Complainant and her daughter moved out of the subject property on or around December 31, 2010. Between September 2010 and December 31, 2010, [REDACTED] was only able to spend limited time with [REDACTED] and was not able to fully enjoy the disability related benefits residing with a companion animal would have provided her. A companion animal helps reduce the emotional and physical anxiety and stress [REDACTED] experiences due to her disability.
33. The new rental property Complainant and her daughter moved into had a higher monthly rent, did not have the same amenities and appliances as the subject property, and was much farther from [REDACTED] school than the subject property. In addition, a ramp had to be built to make the entrance to the new residence accessible for [REDACTED] wheelchair.
34. Complainant and her daughter are aggrieved persons under 42 U.S.C. § 3602(i). As a result of Respondents' discriminatory actions, Complainant and her daughter suffered damages including but not limited to physical and emotional distress, anxiety, inconvenience, and economic loss.

C. Fair Housing Act Violations

35. Respondents violated the Act by discriminating against the Complainant and her daughter in the terms, conditions, or privileges of the rental of a dwelling, by refusing to make a reasonable accommodation to modify their "No Pet Policy," when such accommodation was necessary to afford the Complainant's disabled daughter an equal opportunity to use and enjoy the dwelling. 42 U.S.C. §§ 3604(f)(2)(B) and (f)(3)(B); 24 C.F.R. §§ 100.202(b)(2) and 100.204.

III. CONCLUSION

WHEREFORE, the Secretary of HUD, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f), and prays that an order be issued that:

1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Act, 42 U.S.C. §§ 3601 *et seq.*;
2. Enjoins Respondents, their agents, employees and successors, and all other persons in active concert or participation with them, from discriminating against any person based on disability in any aspect of occupancy, use or enjoyment of a dwelling;
3. Awards such damages as will fully compensate Complainant and her daughter for their damages caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3612(g)(3); and
4. Awards a \$16,000 civil penalty against each Respondent for each violation of the Act that they are found to have committed pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671.

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

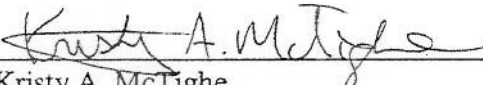
Respectfully submitted,



Thomas J. Coleman
Regional Counsel, Region VII

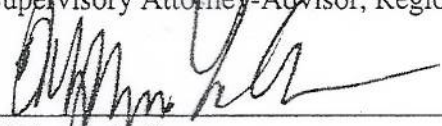


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Date: August 19, 2011

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Charge of Discrimination," "Notice," and "Determination" in [REDACTED] . Meany, et al., FHEO No. 07-10-0931-8 were sent to the following individuals in the manner indicated:

By UPS Overnight and USPS Certified Mail/Return Receipt Requested:

[REDACTED]

Traer, IA 50675

John J. Meany
3350 Highway D65
Dysart, IA 52224

Nancy A. Meany
3350 Highway D65
Dysart, IA 52224

By UPS Overnight, email and facsimile:

Docket Clerk
Office of Administrative Law Judges
409 3rd Street, S.W., Suite 201
Washington, DC 20024
Facsimile: (202) 619-7304
Email: alj.alj@hud.gov

By UPS Overnight (to personally serve on John J. and Nancy A. Meany):

Tama County Sheriff's Office
100 N. Main St.
Toledo, IA 52342

on this 19th day of August, 2011.

Mary Lynn Monson

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